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VP

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/194,053	11/23/98	CHOKRI	M USB96AKIDM

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HM12/0915

EXAMINER

VANDER VEGT, F

ART UNIT PAPER NUMBER

1644

DATE MAILED:

09/15/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/194,053

Applicant(s)

Chokri et al

Examiner

F. Pierre VanderVegt

Group Art Unit

1644



☒ Responsive to communication(s) filed on Jun 17, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire one month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 44-85 ~~is~~ are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 44-85 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

This application is a rule 371 continuation of PCT/EP97/02703.

Claims 1-43 have been canceled.

New claims 44-85 have been added and are currently pending in this application..

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Please Note: In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-305-3704. A Fax cover sheet is attached to this Office Action for your convenience. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Paula Hutzell, Supervisory Patent Examiner at Paula.Hutzell@uspto.gov or 703-308-4310. Thank you in advance for allowing us to enhance our customer service. Please limit the use of this dedicated Fax number to responses to Written Restrictions.

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

20 This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, Applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

25 Group I, claim(s) 44-66 and 75-76 and 80-81, drawn to monocyte-derived antigen presenting cells.

Group II, claim(s) 67-74 and 85, drawn to a process for preparing a composition comprising monocyte-derived antigen presenting cells.

30 Group III, claim(s) 77, drawn to a histamine or cimetidine containing medium for the growth of monocyte-derived antigen presenting cells.

Group IV, claim(s) 78-79, drawn to a cell processor kit.

Group V, claim(s) 82-84, drawn to a method of cell therapy comprising monocyte-derived antigen presenting cells.

5 2. The inventions listed as Groups I-V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

10 Group I is drawn to a monocyte-derived antigen presenting cell of a specific phenotype and Group II most broadly claims a process for the preparation of monocyte-derived antigen presenting cells using chemical ligands of mononuclear cells. However, the process is not limited to the production of monocyte-derived antigen presenting cells of the phenotype claimed in Group I and the method encompasses the preparation of monocyte-derived antigen presenting cells which are distinct from those of Group I. Further, the method of cell therapy of Group V
15 comprises the use of cells limited only by their ability to be made by the broadest claimed method of Group II and, therefore encompasses the use of antigen presenting cells distinct from those of Group I. The groups therefore lack a common special technical feature of the monocyte-derived antigen presenting cells of the phenotype of Group I because other Groups are not limited to cells of that specific phenotype.

20 3. A telephone call was made to Roland Long on September 2, 1999 to request an oral election to the above restriction requirement, but did not result in an election being made.

25 Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any

amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

5 5. Papers related to this application may be submitted to Technology Center 1600, Group 1640 by facsimile transmission. Papers should be faxed to Group 1640 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The fax phone number for official documents to be entered into the record for Art Unit 1644 is (703)305-3014.

10 Any inquiry concerning this communication or earlier communications from the Examiner should be directed to F. Pierre VanderVegt, whose telephone number is (703)305-6997. The Examiner can normally be reached Tuesday through Friday and even-numbered Mondays (on 1999 365-day calender) from 7:00 am to 4:00 pm ET. A message may be left on the Examiner's voice mail service. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Ms. Christina Chan can be reached at (703)308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist, whose telephone number is (703)308-0196.

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F. Pierre VanderVegt, Ph.D.
Patent Examiner
Technology Center 1600
25 September 13, 1999